

That is the kind of person I want in charge of this agency, I say to my friend from Massachusetts.

Mr. KENNEDY. Mr. President, I thank the Senator. If I could have recognition myself.

The ACTING PRESIDENT pro tempore. The Senator is recognized for 2 minutes and 30 seconds.

Mr. KENNEDY. Mr. President, I want to thank the Senator from Washington again. We have worked very closely together. We have worked with the administration. We have worked with our colleagues and friends, Senator ROCKEFELLER and Senator BYRD. We have worked together with Governor Manchin and other Governors. We have worked with the workers, the mine workers, the families. We have worked very closely together. This isn't in any sense a partisan issue. We have come together. There wasn't a dissenting vote here in the U.S. Senate in passing this legislation. There were a few votes in the House that wanted to have even stronger legislation. So we are basically all together and we are asking ourselves, given the fact we are all together and given the fact that we have this extraordinary challenge and problem that is affecting these workers, are they not entitled to someone who is going to be an effective leader in terms of providing safety.

I commend the Senator from Washington for making a strong case. We want to try to have a common position with our colleagues and friends within the administration. But this person—if we are going to I think meet our responsibility to those miners, we have to do better.

I thank my friend from Washington for her excellent presentation. I thank her for her conclusions.

We are facing a major challenge in this Nation about safety in our mines. We have seen the expansion of these mines as our energy situation has become more acute, and now is the time to have real implementation. Now is the time to fulfill our commitment to these families and to these workers. Now is the time to honor the memory of those who have gone into the mines and who have lost their lives. Now is the time to help those whose primary desire is honoring the members of their families by passing an effective bill and have it implemented effectively. Now is the time to do that. If we are going to do that, this is not the individual who is equipped to be able to do it. He is a fine gentleman, and I admire the fact he and his family have been miners. But you have to look at the record: Whether he has been running the mines and overseeing the mines effectively. In testifying, by nature of disposition, he is not the man to implement this, and we should reject his nomination.

The ACTING PRESIDENT pro tempore. The minority time has expired.

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Morning business is closed.

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2007

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will resume consideration of S. 2766 which the clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 2766) to authorize appropriations for fiscal year 2007 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

Pending:

Warner (for Frist/Reid) amendment No. 4208, to express the sense of Congress that the United States Armed Forces, the intelligence community, and other agencies, as well as the coalition partners of the United States and the Iraqi Security Forces should be commended for their actions that resulted in the death of Abu Musab al-Zarqawi, the leader of the al-Qaida in Iraq terrorist organization and the most wanted terrorist in Iraq.

The ACTING PRESIDENT pro tempore. Under the previous order, the time until 12:15 p.m. shall be equally divided between the Senator from Virginia, Mr. WARNER, and the Senator from Michigan, Mr. LEVIN, or their designees.

Mrs. MURRAY. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. LEVIN. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. SUNUNU). Without objection, it is so ordered.

Mr. LEVIN. Pursuant to the unanimous consent agreement which we adopted last night, it is my recollection that on the Democratic side we were going to be offering an amendment immediately following the pending Warner amendment.

I stand corrected. Apparently there was an understanding on this, between myself and Senator WARNER, which was not incorporated.

The PRESIDING OFFICER. An understanding but not a consent agreement.

Mr. LEVIN. I thank the Presiding Officer. Pursuant to that understanding, then, I ask unanimous consent that the pending Warner amendment be temporarily laid aside so I can offer an amendment on behalf of Senator LAUTENBERG.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator is recognized.

AMENDMENT NO. 4205

Mr. LEVIN. Mr. President, I call up amendment No. 4205, an amendment on

behalf of Senator LAUTENBERG, and ask for its immediate consideration following the disposition of the Warner bipartisan amendment.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The legislative clerk read as follows:

The Senator from Michigan (Mr. LEVIN) for Mr. LAUTENBERG, proposes an amendment numbered 4205.

Mr. LEVIN. I ask unanimous consent the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To provide a temporary prohibition on an increase in copayments required under the retail pharmacy system of the pharmacy benefits program of the Department of Defense)

At the end of subtitle A of title VII, add the following:

SEC. 707. TEMPORARY PROHIBITION ON INCREASE IN COPAYMENTS UNDER RETAIL PHARMACY SYSTEM OF PHARMACY BENEFITS PROGRAM.

Subsection (a)(6) of section 1074g of title 10, United States Code, as amended by section 702(b) of this Act, is further amended by adding at the end the following new subparagraph:

“(D) During the period beginning on April 1, 2006, and ending on December 31, 2007, the cost sharing requirements established under this paragraph for pharmaceutical agents available through retail pharmacies covered by paragraph (2)(E)(ii) may not exceed amounts as follows:

“(i) In the case of generic agents, \$3.

“(ii) In the case of formulary agents, \$9.

“(iii) In the case of nonformulary agents, \$22.”.

Mr. LEVIN. Mr. President, the President's budget proposes that the copays for prescriptions under the TRICARE Prescription Benefit Program be increased for our troops and their families and for retirees, and that the increase in the copays be, on the generic prescriptions, from \$3 to \$5; on brand-name prescriptions from \$9 to \$15. The amendment that Senator LAUTENBERG is offering and that I very much support would freeze the current copays in place until December 31, 2007.

This is not the time, in the middle of a war, to be raising copays on our military personnel and their families. They should not have to worry about whether their families are going to be able to afford to buy prescription drugs. The copays that currently exist are not statutory, so the Department of Defense does not need legislative authority to increase them. They have their authority. The problem is that our bill is silent on this subject so they would be increasing the copay because there is no prohibition in our bill on their doing so.

About 43 percent of the prescriptions filled through the TRICARE pharmacy benefits program are filled in retail pharmacies. The increase which the administration proposes would significantly increase beneficiary cost shares for medical care. Of course, the fear is not only that it would be additional